

PUBLIC CHAPTER NO. 1080

SENATE BILL NO. 2807

By Woodson, Marrero, Tate, Ford, Raymond Finney

Substituted for: House Bill No. 3076

By McCord

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 5, Part 4, relative to background checks for certain persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-5-413(d)(1), is amended by deleting the introductory clause in its entirety and by substituting instead the following language:

(1) Any person, corporation or other entity who enters into or renews a contract, or contracts with any person, corporation, or other entity who enters into or renews a contract, with a school, local board of education or child care program as defined in Section 49-1-1102, on or after the effective date of this act, shall be required to comply with this act if the contract requires:

SECTION 2. Tennessee Code Annotated, Section 49-5-413(d), is amended by designating the language of subsection (d)(1) as (d)(1)(A) and by adding the following new (d)(1)(B):

(B) Any person, corporation or other entity who, on or after September 1, 2007, but prior to the effective date of this act, entered into or renewed an applicable contract or contracts with a school, local board of education or child care program as defined in Section 49-1-1102, and such contract remains in effect on the effective date of this act, shall be governed by the provisions of this subsection (d) as it existed prior to the effective date of this act. However, all parties to any such contract may agree to come within the provisions of this act, even if such contracts were entered into or renewed prior to the effective date of this act.

SECTION 3. Tennessee Code Annotated, Section 49-5-413(d)(1)(B), is amended by adding between the words "employee" and "access" the words "to have".

SECTION 4. Tennessee Code Annotated, Section 49-5-413, is amended by deleting subsection (d)(2) in its entirety and substituting instead the following:

(2)(A) It is the duty of the person, corporation or other entity that employs a person described in subdivision (d)(1) to require the applicant to supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation prior to permitting the person to have contact with the children or enter school grounds.

(B) If the person, corporation or other entity is an out-of-state employer, the requirements of subdivision (A) are satisfied if the employer presents proof that a criminal history records check that is comparable to that required by subdivision (A) has been conducted on the employee described in subdivision (d)(1). To qualify as a "comparable" criminal history records check, it must include a fingerprint-based criminal history records check that is conducted by the Federal Bureau of Investigation.

(C) Notwithstanding the provisions of subdivision (A), a person, corporation or entity who, for one employee, satisfies the requirements of this subsection for one school, one local board of education, or one child care program, shall be deemed to have satisfied the requirements for any other school, board of education, or child care program as long as the employee remains in the continuous employment of the same person, corporation, or entity.

(D) Notwithstanding the provisions of subdivision (A), a person, corporation or other entity who, for one contract, satisfies the requirements of this subsection (d), shall be deemed to have satisfied the requirements of this subsection for any subsequent contract as long as the employee servicing or working on that contract remains in the continuous employment of the same person, corporation, or entity.

SECTION 5. Tennessee Code Annotated, Section 49-5-413(d), is amended by adding the following new subdivisions:

(5) The provisions of subsection (d) shall not apply to:

(A) Government personnel engaged in law enforcement, medical or emergency health services;

(B) Utility personnel, where utility means any entity created or authorized by law to provide electricity, gas, water, wastewater services, telecommunications services, or any combination thereof; or

(C) Delivery or pick-up service providers where those services involve only scheduled visits under the supervision of school personnel.

(D) A person whose contract is for the performance of a service at a school-sponsored activity, assembly or event at which school officials or employees are present when the service is performed and where the activity, assembly, or event is conducted under the supervision of school officials or employees.

(6) Nothing in this subsection (d) shall be construed to prevent any person, corporation, or other entity that employs a person described in subsection (d)(1) from directly receiving, upon payment of the appropriate fee, information indicating whether the employee meets or does not meet the criteria set out in this subsection.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to contracts or the renewal of contracts as provided in Sections 1 and 2.

PASSED: May 13, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of May 2008



PHIL BREDESEN, GOVERNOR